

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
(MILWAUKEE DIVISION)

NANCY DEWEY, individually and as trustee
for THE NANCY DEWEY LIVING TRUST,
THE NANCY DEWEY 2015 NEA GRANTOR RETAINED
ANNUITY TRUST, THE NANCY DEWEY 2015 P&D
GRANTOR RETAINED ANNUITY TRUST, THE
IRREVOCABLE TRUST FOR THE GRANDCHILDREN
OF NANCY AND DOUGLAS DEWEY, and
JOHN DEWEY individually and as trustee for
THE JOHN D. DEWEY LIVING TRUST,
THE JOHN D. DEWEY IRREVOCABLE
CHILDREN'S TRUST, THE ABIGAIL
DEWEY IRREVOCABLE TRUST, THE ERIN
DEWEY IRREVOCABLE TRUST,
THE IAN DEWEY IRREVOCABLE TRUST,
THE SHEAMUS DEWEY IRREVOCABLE TRUST,
THE ABIGAIL DEWEY DESCENDANT'S TRUST,
THE ERIN DEWEY DESCENDANT'S TRUST,
THE IAN DEWEY DESCENDANT'S TRUST,
THE SEPARATE TRUSTS FOR IAN DEWEY,
SHEAMUS DEWEY, ERIN DEWEY AND ABIGAIL DEWEY, and
THE SHEAMUS DEWEY DESCENDANT'S TRUST,

Case No. _____

Plaintiffs,

v.

KURT BECHTHOLD, MARK FILMANOWICZ, DAVID BECHTHOLD,
JOHN G. SORENSON, PAYNE & DOLAN, INC., NORTHEAST ASPHALT,
INC., CONSTRUCTION RESOURCES MANAGEMENT, INC., ZENITH TECH,
INC., and TIMBERSTONE OF RICHFIELD, INC.,

Defendants.

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPOINTMENT OF
RECEIVER OR, ALTERNATIVELY, AN ORDER TO PERMIT INSPECTION AND
COPYING OF THE DEFENDANT COMPANIES' ACCOUNTING RECORDS**

To: The above-named defendants.

NOTICE OF MOTION

PLEASE TAKE NOTICE that the above-named Plaintiffs, by and through their attorneys, Kravit, Hovel & Krawczyk, s.c. and Gibson Dunn & Crutcher, LLP, and pursuant to Federal Rule of Civil Procedure 66, Wis. Stat. §§ 180.1601 – 180.1604, and the Court’s inherent authority, will move for an order appointing a limited receiver for the purpose of: (1) conducting a forensic accounting of the accounting records of Defendants Payne & Dolan, Inc. (“P&D”), Northeast Asphalt, Inc. (“NEA”), Construction Resources Management, Inc. (“CRM”), Zenith Tech, Inc. (“Zenith Tech”), and Timberstone of Richfield, Inc. (“Timberstone;” together with P&D, NEA, CRM, and Zenith Tech, the “Companies”); (2) identifying any and all assets and interests owned by the Companies, including those assets and interests that are not included in the Companies’ accounting records; (3) determining whether the Companies engaged in improper transactions and/or whether the Companies’ assets or opportunities have been used to purchase, establish, or support operations and/or businesses outside the ownership of Plaintiffs; and (4) determining the book value and fair market value of Plaintiffs’ minority shareholder interests in the Companies. Alternatively, Plaintiffs will move the Court for an order pursuant to Wis. Stat. § 180.1604 to permit inspection and copying of the Companies’ accounting records and awarding Plaintiffs’ costs and expenses, including reasonable attorney fees, incurred in obtaining the order.

This Motion shall be heard at a date and time to be set by the Court, in the courtroom usually occupied by the Court at the United States Federal Courthouse for the Eastern District of Wisconsin, Milwaukee Division, located at 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

MOTION

Plaintiffs, by and through their attorneys, Kravit, Hovel & Krawczyk, s.c. and Gibson Dunn & Crutcher, LLP, and pursuant to Federal Rule of Civil Procedure 66, Wis. Stat. §§ 180.1601 – 180.1604, and the Court's inherent authority, move for an order appointing a limited receiver for the purpose of: (1) conducting a forensic accounting of the Companies' accounting records; (2) identifying any and all assets and interests owned by the Companies, including those assets and interests that are not included in the Companies' accounting records; (3) determining whether the Companies engaged in improper transactions and/or whether the Companies' assets or opportunities have been used to purchase, establish, or support operations and/or businesses outside the ownership of Plaintiffs; and (4) determining the book value and fair market value of Plaintiffs' minority shareholder interests in the Companies. Alternatively, Plaintiffs move the Court for an order pursuant to Wis. Stat. § 180.1604 to permit inspection and copying of the Companies' accounting records and awarding Plaintiffs' costs and expenses, including reasonable attorney fees, incurred in obtaining the order.

The reasons and grounds for this Motion are set forth in detail in the Memorandum and Declarations submitted herewith.

Dated: November 1, 2018

Brian M. Lutz (*admission pending*)
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Respectfully submitted,

/s/ Stephen E. Kravit
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